

APPENDIX 1

U.S. Department of Labor

Assistant Secretary for
Employment and Training
Washington, D.C. 20210



MAR 31 2004

MEMORANDUM FOR:

ELLIOT P. LEWIS
Inspector General for Audit

FROM:

EMILY STOVER DeROCCO
Assistant Secretary
Employment and Training Administration

A handwritten signature in blue ink, reading "Emily Stover DeRocco", is written over the typed name and title.

SUBJECT:

Evaluation of the North Carolina Growers Association
Draft Audit Report No. 04-04-008-03-325

Attached are the Employment and Training Administration's (ETA's) comments in response to the Office of the Inspector General's evaluation of the North Carolina Growers Association's (NCGA's) H-2A program activities. ETA's comments are based on the H-2A program operating procedures and the NCGA's participation in the program as a joint employer association.

In view of the unintended consequences that might result from departing from long standing historical practices of ETA and USCIS, the comments are directed only at the findings of the evaluation and not at the recommendations as provided by OIG.

Thank you for the opportunity to comment on this draft report. We look forward to receiving the final publication and working cooperatively with your office on future efforts.

Attachment

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U.S. DEPARTMENT OF LABOR
OFFICE OF INSPECTOR GENERAL

APPENDIX 1

OIG's Findings and Recommendations on the North Carolina Growers Association's (NCGA's) Participation in the H-2A Program and ETA's Response

OIG Finding

NCGA did not properly report workers who abandoned their jobs to the North Carolina Employment Security Commission (NCESC), nor to the United States Citizenship and Immigration Services (USCIS).

OIG Recommendation

The Employment and Training Administration (ETA) should ensure that NCGA complies with requirements to accurately report workers who abandon their jobs or terminate early. To be of use in evaluating the program and to assist Wage and Hour in ensuring contract and transportation guarantees are met, reports should include the name of the assigned grower and the date that the worker abandoned or was terminated.

ETA Response

ETA relies on the Department of Labor (DOL) regulations at 20 CFR 655.102(b)(ii) that require employer notification to the State Workforce Agency (SWA) of worker abandonment, but does not require any further coordination between ETA, SWA, and USCIS. ETA does not have the authority to track and report worker abandonment, as this is the purview of the USCIS.

OIG Finding

NCGA submitted applications that contained inflated requests for temporary workers which created an artificial oversupply of laborers which encouraged workers to abandon their jobs.

OIG Recommendation

ETA should coordinate reporting requirements with USCIS. The source of abandonment data is the same for ETA and USCIS and the coordination of the requirements will minimize duplication and ensure consistency.

ETA Response

ETA does not question employers regarding the number of workers requested on their applications because we rely on the employers' knowledge of their staffing needs. ETA does not have a mechanism in place nor the staffing resources to question each employer's stated need for workers.

OIG Finding

NCGA falsified expected periods of employment, which encouraged workers to abandon their jobs and forfeit their rights to return transportation and three-quarter contract guarantees.

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OIG Recommendation

Review dates of need contained on applications and insist they more accurately reflect dates workers are needed for harvests. By doing so, ETA may reduce the number of workers who abandon employment after completing their first assignment and forfeit their rights to the three-fourths guarantee and return transportation.

ETA Response

In the past few years employers have shifted from single crop to multi crop agricultural production due to economic necessity. Due to diversified crop operations, it became necessary for growers to extend their dates of need to accommodate the multiple crop activities. However, ETA will reinforce its policy to verify that employers' dates of need are reasonable and correlate with their historical practices.